DOCUMENT RESUME

ED 228 708 EA 015 556

AUTHOR	Jenkins, Robert E.; Woodson, Marvin C.
TITLE	Reduction in Force: Policy & Procedure in South Carolina School Districts.
INSTITUTION	Clemson Univ., SC. Coll. of Education.
PUB DATE	Jan 83
NOTE	40p.; May reproduce poorly in paper copy due to light print.
AVAILABLE FROM	Publications, Department of Elementary and Secondary Education, College of Education, 400 Tillman Hall, Clemson University, Clemson, SC 29631 ($2.00).
PUB TYPE	Reports - Research/Technical (143) -- Information Analyses (070)
EDRS PRICE	MF01/PC02 Plus Postage.
DESCRIPTORS	*Board of Education Policy; Declining Enrollment; Elementary Secondary Education; Financial Problems; Program Implementation; *Reduction in Force; *School Districts; State Surveys; Tables (Data); Teacher Characteristics; *Teacher Dismissal
IDENTIFIERS	*South Carolina

ABSTRACT

Starting from a survey of research literature and court cases, researchers conducted a study of South Carolina school districts' policies and procedures concerning reductions in force (RIFs). The literature review indicated some of the conditions necessitating RIFs (such as state financial problems), methods of avoiding RIFs, and criteria for RIF implementation, including seniority, tenure, due process, and desegregation requirements. In the study, 72 of the state's 92 districts responded to a survey asking for copies of RIF policies. Data analysis covered the types of RIF policies, conditions specified as necessitating RIFs, teacher characteristics used as RIF criteria, and methods of applying RIFs. Among the findings were that most districts have RIF policies; that the major conditions necessitating RIFs are financial exigency, declining enrollment, and program changes or elimination; that RIF criteria used most frequently include years in the district, degrees, certification, and evaluations; and that RIF implementation policies usually include recall rights and due process. Thirteen recommendations, with an appendix containing copies of cover letters and the survey questionnaire, are attached. (RW)

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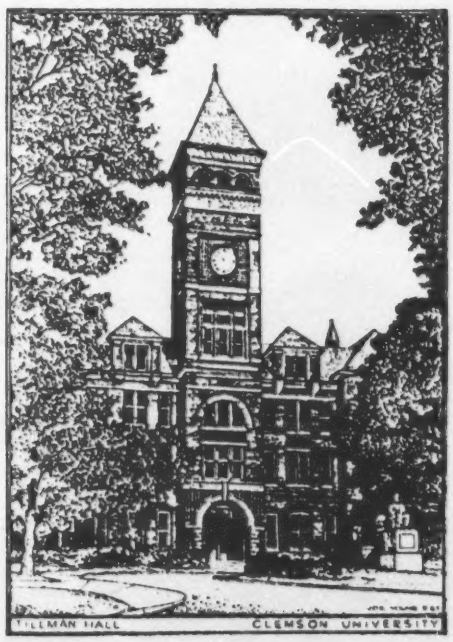
REDUCTION IN FORCE: POLICY & PROCEDURE IN SOUTH CAROLINA SCHOOL DISTRICTS

Robert E. Jenkins
Marvin C. Woodson



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Robert E. Jenkins
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FOREWORD

The writers' earnest wish is that the information made available through this effort will provide school administrators, who are grappling with the daily problems inherent to public education, with a base for structuring solutions to the problems of Reduction in Force.

The intent of this document is not one of presenting a simple answer to an exceedingly complex issue; rather, the intent is to aid in creating an aura of awareness, a knowledge of practices and procedures within this state, and to bring forth factors which deserve consideration by public school boards in their deliberations.

A task such as this study presents cannot be accomplished without the efforts of numerous individuals. Therefore, acknowledgement is expressed to: Mr. Tom Ackerman, Executive Director, South Carolina Association of School Administrators; Dr. Jane Wilson, President, South Carolina Association of School Administrators; District Superintendents responding to the study; Myra Armistead, Research Librarian, Cooper Library, Clemson University; Kathy Crocker and Betty Scott, graduate assistants, College of Education, Clemson University and Penni Seibert, our typist.

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January, 1983.

INTRODUCTION

Public education is, as always, on the firing line. As a tax supported social institution it is probably the most vulnerable and, though difficult to achieve, is expected to be the most responsive; vulnerable in terms of a place to bring about change (social or otherwise), and responsive in that it is the institution where the general public expects to see visible change. Certainly, in terms of current trends of declining enrollment and state and federal budgetary slashes, public education has been hard hit and has been expected to respond by continued provision of services with less available dollars.

The larger share of any school district's revenue is budgeted in salaries and in particular in teacher salaries since that group comprises the greater number of employees. Thus, when financial shortfalls occur, the problem becomes one of a logical need to have a reduction in force (RIF) while still maintaining programs at an acceptable level.

We may examine a simplistic solution to the problem of an equitable procedure for RIF through formulating several postulates:

1. Declining enrollment should be accompanied with a need for reduction in programs both as to size and number and thus a need for RIF.
2. Decreased revenue and budgetary constraints should be accompanied with a comparable need for RIF.
3. RIF should be determined on the generally acceptable bases of tenure, seniority, qualification, program availability, and evaluation of employee competency.

4. The above noted bases for RIF are normally present in statutory provision, and district board policy.
5. The application of statutes and board policy for RIF provides a board with the legal credibility it must have.

South Carolina is not unique in that there are no statutory provisions for RIF; however, this does not negate the need for a close examination of the posture which school boards must take in order to face the issue of maintaining a legal base for their actions. As a matter of fact, school boards in any state wherein statutory provisions are absent are in a more vulnerable position than boards supported in their action under existing legislation and regulations.

Predictions for the future are somewhat bleak as related to enrollment and finance. In all probability, the current press for RIF will subside when some type of zero level of revenue versus needed positions is reached. To assume the stance that stability, once reached, will be maintained would be administrative insanity (and probably administrative suicide). Thus, as educators, we must assume that our profession will face this issue over and over and establish a "way of doing" that functions in a context of legality, equitability and efficiency; above all, the process must culminate in the least possible injury to the educational program.

Limitations

"Limitations" as defined in this study included those factors over which the writers had, or exercised, no control. Those factors identified as limiting the study were: the necessity of guaranteed anonymity to respondents; the distribution of instrumentation exclusively to public

school districts within the state of South Carolina; the numbers of school districts voluntarily responding; the variance of policy formulation and definitions used by the responding districts; the variance in documentation supplied by the responding districts, and; the variance in location, size and organizational patterns of responding districts.

Delimitations

"Delimitations: as defined in this study included those factors over which the writers exercised varying degrees of control. Some more obvious delimitations identified by the writers included: the construction of the response instrument and items contained therein; the distribution procedure used in soliciting responses from all South Carolina public school districts; the perceptions by respondents of documentation requested under the instrument; the validity of conclusions stated based on a 78.3 percent response return, and; the interpretive analysis of documents as reviewed by the writers.

Need for the Study

Through numerous contacts in the public education community of South Carolina, the writers became aware of the frustration within school districts faced with probable (and substantial) instructional employee dismissal. Because of the inadequacy of information as to the state of the art in South Carolina, and because of the absence of any statutory support concerning this issue, the necessity to examine practices and procedures currently in vogue for Reduction in Force was obvious.

REVIEW OF LITERATURE

The following presentation of a review of general literature and appropriate legal citations is the result of an examination of items specifically related to this study.

The format for this review is structured so as to conform to the general design of the study, the response instrument, and the analysis of data.

OVERVIEW

The State of South Carolina is not unique in its failure to enact RIF legislation; however, it is in the minority along with several other states in not having such statutes (34:15). Thus, in seeking to determine the status of practices and procedures used in school districts within this state, it becomes obvious that local school boards are "on their own"--and with little direction or protection at the legislative level. Davis points to the fact that neither seniority nor the Teacher Employment and Dismissal Act govern RIF situations in this state (3:16). Davis also emphasizes the difference between "cause" -- the teacher's conduct or failure to act -- as opposed to "cause" from an external force over which the teacher has no control (i.e., decline in enrollment, budgetary constraints) (43).

CONDITIONS NECESSITATING RIF

Until more recent times public school districts in South Carolina have had only minor teacher retention and employment problems; largely

because of enrollment fluctuation or program changes brought about as the result of federal or state regulatory modifications--and usually in the special program area (i.e. ESEA, ESAA). In the majority of districts staffs have been maintained through normal attrition rates (usually predictable). But now the spectre of RIF looms over all--without discrimination as to size, structure, or geographic location (34:3).

In April, 1979 William Stanley presented a paper before the National School Boards Association convention wherein he reviewed the major causes for RIF (27). At that time the employment problems he addressed were largely indigenous to large, urban school districts. However, declining enrollment (a predictable condition) was rapidly being accompanied by both decreasing revenue and continuing inflation (5); conditions which were soon to be impacted by a change in posture of those in Washington as to the administration of federally supported educational programs.

The State of South Carolina began its efforts to initiate accountability legislation in the mid-1970's; the collective efforts demanded of school districts created a need to re-examine staffing policies. The implementation of The School Finance Act of 1977, The Basic Skills Assessment Act of 1978 (Act 631), The Teacher Education and Improvement Act (Act 187), all necessitated a period of examination by school districts of their curriculum, its funding, and its delivery. These changes soon became impacted by declining enrollment and revenue short falls.

Thus, administrators and school boards now were faced with the dual challenge of structuring staff to meet reduced (or re-channeled) federal support while at the same time adhering to statutes requiring a radical change in most districts' funding, operation, and reporting in instructional areas. And all at a time of severe austerity.

In 1981, Governer Richard Riley announced the first of several state revenue short-falls; the most recent being a 4.6 percent hold back for all state support items provided under the newly implemented School Finance Act. Superintendents and district school boards were faced with a problem of such proportions that the need to RIF became more than a probability -- it was a reality!

The term "financial exigency" rapidly became an integral part of the "educationalese" in public school administrative discussions throughout this state: "When can we say that we are financially exigent?" was the question. Much has been written during the past several years as to "what constitutes financial exigency. Does a school board have to face bankruptcy? Does a school district have to liquidate its holdings or sell real properties in order to maintain traditional staff levels? Apparently not (32:133), for the courts have entered into the issue by defining financial exigency as: "a state of urgency" (46). Though there have been numerous instances of litigation addressing this area, it appears, as described by Stroup, that precedent cases have not forced capital liquidation requirements upon institutiors forced to RIF because of fiscal hardship. They have not been forced to provide proof that ALL cost-reducing possibilities have been examined or exhausted. It is recommended, however, that a governing body maintain proof of the pattern of deficits which have generated the problem (29:10). Generally speaking, it appears that the courts have tended to accept the exigency described by the boards when challenged (12) (18) (29) (33). It should be emphasized that the courts have demanded proof of financial exigency, ruling that the burden of proof for that condition resides upon the shoulders of the board. (3:16) (36). In several instances the courts

have taken the position that an institution cannot be forced to liquidate capital holdings in order to overcome general operating deficits in areas of the budget normally earmarked for staff employment (17:10) (32:133).

As the decade of the '70s was ending, school boards began to recognize that the normal rate of staff attrition upon which they had depended so heavily was decreasing year-by-year (16:12) (18:4). In South Carolina, the district median teacher turnover dropped from 14.4 percent during the year 1976-77 to 13.6 percent in 1980-81. Viewing this decline on a statewide basis during that same time period the state total has dropped from 12.9 percent to 11.4 (23) (24). This problem, accompanied with a decrease in revenues, continued inflation, increasing fixed costs and loss of pupil enrollment, was mandating policy adoption in a very sensitive area -- the necessary dismissal of qualified, certified, competent, experienced and loyal employees (2:511).

Student enrollment projections provided by the South Carolina State Department of Education paint a picture of a very unstable pupil population during the latter part of this decade (28). Though increases applied against average survival ratios appear at some levels, decreases appear at others. Even if the total number of pupils to be served remains stable, the problems of certification in particular disciplines and at particular levels continue to remain a major issue in addressing policy inclusions for RIFing that protect both the senior teacher and the quality level of the educational program (4:173). It should be noted here that some courts have upheld the authority of the board to dismiss both instructional and administrative personnel where enrollment declines and to demote supervisory and administrative personnel in similar circumstances (58) (60).

Though enrollment declines in the late 1970's had been giving cause for concern, the normal attrition rate was the solution to the problem. However, when massive cuts came in federally supported programs (such as ESEA, Title I), an initial entry into the concept of RIFfing became a necessity for public school districts. The problem has now been amplified with the additional stress of state budgetary constraints. In dealing with this dually imposed problem in attempting to maintain an instructional staff, school boards must realize that teachers employed under federally funded programs have all the rights, privileges and responsibilities of those funded from state and local sources. Thus, it falls upon a board to structure policy that will not descriminate in those criteria of bases for dismissal under RIF (40) (59).

Duignan recommends that school districts examine the possibility of shared assignments and responsibilities rather than RIF (6:3). This concept is also supported by Bender as an acceptable alternative to RIFfing (1:39). Given the requirement to meet state mandates; given standards established under state and regional accreditation, and; given the press to adhere to federally imposed regulations and guidelines, such a job assignment procedure to avoid RIFfing could place school districts in a vulnerable position wherein the quality of programs they are trying to save could be questioned. At some grade levels and in some subject areas, shared responsibility would foster few problems and could conceivably enhance particular instructional programs; in others such actions might be viewed as an educational catastrophe and a giant step backward.

Many school districts operate on an established short-and long-range enrollment and program projection through comprehensive educational planning

(8:4); many do not! Such planning provides for the constant monitoring of program and program needs and demands. Spenlia suggests that courses of low frequency and of apparently little relevance for students be replaced with programs of higher interest (example: decrease in Home Economics course enrollment versus an increase in Computer Skill demands) (25:245). Obviously, a program change designed to fight off the impact of declining enrollment will necessitate a change in instruction, thus a possible change in personnel. Perhaps this type program change can be accomplished through in-service courses for personnel rather than the more traumatic process of RIF (1:39).

Demboski and Gay point to the fact that a slight decrease in enrollment may actually result in program improvement, whereas massive declines have more adverse effects (4:175). Thus, careful, monitoring of the relationship between declining numbers in a given program and program quality must be maintained before decisions can be made to decrease instructional personnel within that program.

A view held by some members of the general public is: lower enrollments mean less space requirements, fewer teacher salaries, less materials, and reduced maintenance expenditures -- thereby, less tax monies channeled into the educational process. Spenlia makes the point that declining enrollment provides financial relief only when school buildings are closed down and the site is sold to secure revenue (25:245). (Based on aforementioned factors the courts probably would not make such a demand on a school board and it goes without saying that vacating and selling a school building is not always the best public relations action a board can undertake!)

Public education has been described by many authorities (too numerous to cite here) as the most vulnerable and most responsive of all social institutions. This vulnerability and responsiveness is evident in the normal

pattern of mandated program change which occurs within public school curricula. Phay describes this as a natural consequence of the "needs of society" -- and it is a normal expectation (18:5).

Thus, as our social system alters its course so do the schools. Joel Spring states: "...the United States has a national system of education with some variation at the state and local level." (26:111) When we see program changes occur in any given school district it is usually the result of a national trend, and usually has its genesis within another social institution. In the current circumstances, school systems would do well to carry out in-depth analyses of the status and predictable status of particular programs, examining the positive effect that consolidation, modification, or termination of specific programs might have on both the student and instructional employment, and how those programs relate to demands of other social institutions. The delicate balance between quality of program and morale of the students and instructional force is described by Harris, et al as follows:

> Reduction in force (RIF) is both an analytical and a political problem. The parameters of the current and future situations need to be carefully studied before any action is taken. Once the extent of the loss of scholastics has been determined, all elements of the administration have a role in minimizing the confusion and rancor that can accompany RIF...Job security looms ominously in the minds of all teachers...(27:268-9).

The tendency to RIF "last in, first out", may or may not be the best protection for maintenance of program quality. Samuel Moore, in his article, "The Last Shall Be the First and the First Shall Be the Last", cautions the reader to ask why the new, younger teacher was originally employed. Moore takes the position that the newest teacher might have the vitality

and competence needed to give a program the best possible results (the new blood approach). The added incentive for retaining a teacher with less seniority is that he/she is less expensive (13:329).

The danger in utilizing the above approach and attempting to RIF as many tenured, high-salaried teachers as possible will surely lead to continuous litigation (17:18-21). Whatever course of action is defined under board policy, the existence of two major factors must be recognized: first, the quality of the curriculum must be maintained, and; second, regardless of the quality of the curriculum it becomes dysfunctional unless consideration is given to the morale of the teacher (27:4).

Public education exists for the primary Unit of Benefit -- the pupil! (9:3). That focus of purpose must be kept in proper perspective above all else (10:260) (19:17). Then if there is program change -- for whatever reason -- the question arises as to whether or not a school board is within legal bounds when it eliminates a position because of the program change (42). The issue could well become: is there a vacant position for which the teacher is qualified, and if so must he/she be placed in that position or may the board employ another of similar or less qualification? (41) (49). This type situation leads to the inevitable conclusion that whether conditions necessitating RIFfing and subsequent RIF policies are forced by external events (i.e., birth rate, fiscal change, program modification, etc.) or internal causes of similar ilk, staff reduction may well be the only answer (6:1). Another inevitable conclusion is that procedures must be adopted under which RIF policies are to be executed. The matter of procedures within this state must be carefully structured, for South Carolina statute provides only for dismissal for cause (30:97); whereas, as Phay describes,

RIF focuses on who should be terminated and under what criteria any by what procedure (17:17) (21:16). To dismiss an employee who -- for all intents and purposes -- has performed competently and satisfactorily is a devastating action that must be approached morally, ethically, and legally. Castetter points to the need to give attention to the type of system planning that will address these considerations (7:268-9). And of these three considerations the greater caution resides within the legal parameters addressing the rights of teachers (27:4).

CRITERIA FOR IMPLEMENTING RIF

Of the numerous criteria appearing in school district RIF policies and procedures, the factor of seniority is foremost. It has been viewed as the single most impartial and objective means for determining RIF. However, an examination of other criteria appearing in the literature gives pause to consider policy based largely or solely on seniority. In a recent article in Phi Delta Kappan, Johnson, although acknowledging that seniority is the most objective criteria for RIFfing, cautions as follows:

> But seniority, as it is applied in some districts, can present problems, for it provides no control over staff quality, it permits disruption of classes, and it undermines the allegiance, stability, and diversity of staff members. The costs of seniority can be great. (10:260)

Moore urges that criteria be established that will have the most positive effect on schooling (13:331). From an objective standpoint as to the meaning of the loss of instructional personnel, Kalvelage suggests that a RIF procedure should include administrators, and that alternatives -- such as part-time instructors and job sharing situations -- be offered in lieu of complete dismissal (11:12,14). In times of budget austerity, school boards

traditionally look to possible surpluses in the supervisory and administrative areas. Though these types of positions are lesser in number, the higher salaries draw attention when dollars become scarce. Since fewer instances of RIFfing occur in these areas, boards should proceed cautiously and realize that the moral, ethical and legal parameters addressed earlier within this review are, for the most part, applicable -- particularly in the absence of statute. (53) (54) (58).

Though alternatives such as those mentioned above could be provided under policy, professional associations would fight, in all probability, on the basis of the loss of continuity of fringe benefits (i.e., retirement, insurance, etc.) (10:260). The State Department of Education would do well to examine alternatives and recommend the type of legislation that would provide protection to employees forced to accept limiting employment in lieu of RIF.

Under the Teacher Educator and Improvement Act of 1979, the State of South Carolina has enacted, in essence, a type of tenure law. The steps to professional course entry at the college level, passing through a probationary period, and state certification and contract under statutory provisions, places a different light on the status of the teacher who has successfully negotiated these steps to professionalism. Thus, it is now appropriate to examine the role that tenure plays in the RIF process.

Tenure contains both substantive and procedural issues. It is generally accepted (and the courts have agreed) that tenure is a qualified right to continue employment (29:3). Therefore, a policy defining the role tenure plays in RIF must also define procedures which are very explicit as to the procedural rights of the tenured teacher (55). Does the tenured teacher have the right to "bump"? In his study conducted under sponsorship of the

National Institute of Education, Stroup emphasizes that faculty members do not have "bumping" rights unless they exist within contractual language (29:34). Moore sees "bumping" as occuring if: "you posses at least minimum qualifications and/or certification and greater seniority in the system than the person you bump." (13:330). The tenured teacher who falls under Moore's description of the "bumper" could very easily be the least effective instructor within a given program. A common practice where "bumping" is included under RIF policy, is that the dismissed teacher is replaced by a senior teacher from another unit. Such procedures amplify problems of instruction and supervision (10:61). Thus, in the absence of contractual language concerning the right to "bump", confusion may result and the stage set for legal action by the "bumped" teacher -- whether tenured or non-tenured (39) (52).

Where statutes exist concerning RIF, two limitations are most common: 1) non-tenured teachers must go first within a particular area of certification, and; 2) seniority prevails among those who are tenured (25) (34). Therefore, even though school boards have the legal right to take actions which result in dismissal, should RIF statutes be enacted in South Carolina it is very likely that tenure and seniority would be major constraints for school districts in structuring applicable policy. Along with tenure and seniority arises the matter of certification. Generally speaking, the courts have protected the teacher qualified through degree and certification within his/her area of responsibility; however, such protection does not seem to apply to provisionally certified or out-of-field teachers (37).

Other considerations beyond seniority and certification which might appear in RIF policy could be appropriate in particular circumstances; for example, if dismissal were a necessity and two teachers had reasonably

equal qualifications and experience, weight for retention conceivably could lie on the side of the one charged with on-going and essential extracurricular assignments (62).

Haun urges that RIF policies should be developed before they are needed (8:4). Bender suggests that policy be developed with the involvement of teachers, administrators, and parents (1:38), while Stanley recommends that open meetings with teachers and others be held so that a clarification of policy interpretation and procedures for RIFing will be understood by all (27:10). Stroup relates that the typical challenge to dismissal centers on the lack of contractual reasons, failure by the governing group to prove the reason cited in the dismissal, errors by those in authority as to the choice of individuals to be dismissed, and failure to follow required procedures (29:4).

The application of RIF policy (or administrative procedure where policy is lacking) is a substantive process. Assuming that such application is generally acceptable, this does not forego the importance of procedural steps in RIF dismissals (61). The greater emphasis in procedure lies under the rights provided within the rights of teachers (or others) to the due process of law. Phay give emphasis to the fact that due process in dismissal for cause is relatively simple to guarantee since the major issues is "guilt or innocence" of the charge; whereas, due process in RIF cases is a multiplicity of issues and thus becomes highly complex in dealing with the rights of the individual (19:14) (50). Zirkel and Bargerstock point out that: "the basic procedural rights which may apply in RIF are notice, hearings, and appeal." (34:17).

To this point nothing has been said of evaluation and the part it plays in procedural rights as an individual faces dismissal under RIF. The matter centers on how competence is addressed within a school districts evaluation procedures. In areas where collective bargaining agreements control employment; retention; placement; grievance, and; dismissal; evaluation becomes an understood part of the "due process" (assuming that the agreeement is administered correctly). However, in states -- such as South Carolina -- where public employee bargaining is statutorily absent, this issue becomes highly significant. That significance is in the fact that courts have ruled that where a personnel evaluation system is required of all employees then that system enters into the decision as to RIF procedures under due process and thereby relates to the rights of the individual (47).

Interestingly enough, and just as important, is the recognition that the right of "recall" may be judged within the context of due process. In essence, procedures for recall, regardless of substantive issues contained in policy, should provide for the individual not recalled to be afforded the opportunity to know -- why not (44) (45). Though statutes do not yet exist and though all school districts in South Carolina do not yet have RIF policies, school boards should be aware of the recently enacted proviso to the 1982-83 General Approriations Act, which requires districts to provide recall for teachers of at least one year's experience dismissed for economic reasons (15:320). Though such a statutory provision provides some protection in recall for the teacher of at least one year's experience, it does not place statutory limitations as to how long the RIFfed teacher enjoys that privilege; thus, there is seemingly little protection for the school board should they be challenged (48). Obviously, the charge to a school board

in its RIF policy development is to make the time and circumstances for recall completely clear and that recall consideration begins with the availability of a position for which specific qualifications remain the same as to seniority and certification (56).

South Carolina school districts are subject to one of two desegregation procedures -- court order or voluntary plan. It therefore behooves the writers to examine this condition in light of criteria presented in the application of RIF policy or procedure. These plans are federal in origin and thus are executed under the U.S. Constitution. One doesn't have to be a Supreme Court Justice to determine that a board policy should be written so as to take court orders, voluntary plans, or affirmative action plans into consideration as policies are developed. As described by Rebore:

> Because many school districts have only recently attempted to equalize minority groups in their work force, the use of seniority based reduction procedures usually means that minority employees are among the first to go. Court mandated desegration in hiring practices and the legislative demand for affirmative action calls for the introduction of alternatives to RIF whenever possible. (22:34).

The ratios under which such plans exist cannot be altered simply because of the adoption of RIF policy. Legal issues invloving minority and majority race teachers have approached the matter from the bases of both discrimination and reverse discrimination (35) (38). Thus, a school board should have a full understanding -- and probably legal clearance -- as it develops or revises that section of its RIF policy which relates to the maintenance of established ratios. Care must be taken that steps already implemented under federal mandate for the purpose of overcoming discrimination of the past cannot be ignored for the sake of expendiency in reducing force while at the same time not violating the rights of any. In an article in

Education Weekly, Toch reviews the possible outcome of an upcoming U.S. Supreme Court hearing of the case, Boston Firefighters Union v. Boston N.A.A.C.P. (No. 82-185), and the implication this case may have on whether retention of minority teachers for the purpose of maintaing ratios violates the Constitution and thereby the contractual rights of white teachers (31:9).

An inclusion within many RIF policies is "placement assistance" for the RIFfed personnel. Such placement efforts by a district usually include transfer within the district and is addressed in the courts from the standpoint of "every reasonable effort" (57). There appears to be little literature available defining any obligation on the part of a board to assist dismissed staff in locating positions in any external agencies.

DISTRICT RIF STATUS	I. CONDITIONS NECESSITATING RIF						II. CRITERIA FOR IMPLEMENTING RIF								III. APPLICATION OF RIF							IV. OTHER ADM. PROCEDURES
	No. of District Responses	Financial Exigency	Declining Enrollment	Program Change or Elimination	Reorganization or Consolidation	Other Circumstance (Not Specified)	Degrees Earned	Fully Certified	Certificate Type	Certificate Area	Total Years Teaching Experience	Total Years in Specific District	Tenure (Per Se)	Evaluation (Performance)	"Bumping"	District-Wide	School Level	Right to Recall	Due Process	Placement Assistance	Civil Rights	
Adopted Board (RIF) Policy	44	34	33	35	5	4	27	5	11	17	10	41	1	31	4	15	2	32	29	21	2	17
Use Existing Personnel Policies	1		1					1			1	1										
Use Administrative Procedures	5											1										
Action -- Superintendent's Recommendation	3									1		1		1								
Have Had No Problems	16																					
Use Other Means	3	1																				

CONTENT MATRIX (n=72)
RIF POLICIES AND PROCEDURES
SOUTH CAROLINA SCHOOL DISTRICTS

SUMMARY and CONCLUSIONS

The nature of this study is such that, though the specific data are indigenous to South Carolina school districts, the general protocol of force reduction has precedent established under statute and case law at both state and federal levels.

Thus, the assumption cannot be made that: "It's right because we are all doing it." Rather, the test of the procedures adopted under a particular RIF policy is: are individuals afforded their legal rights and is the integrity of the governing body (the school board) protected and maintained?

The total response to the survey instrument (78.3%) was extremely high for a study of this type. Of the existing 92 school districts in South Carolina, 72 responded and most responses were returned within two weeks of district receipt. The immediacy and volume of the return indicates the current importance of the issue.

An examination of the data matrix reveals that the 72 responding districts are identifiable under the following categories by number:

1. Have adopted RIF policy 44
2. Use existing personnel policy 1
3. Use administrative procedures 5
4. Use board action upon Superintendent's recommendation 3
5. Have had no problems and have no RIF policy 16
6. Use other means to RIF 3

It should be noted here that the validity of the sample is highly representative because of the conditions under which responses were returned.

though anonymity was desirable (and guaranteed), many instruments were returned with the name of the responding school district included within the policy on the information provided. Therefore, the writers are secure in stating that the sample is not only sufficient in size but in scope as well. It may be concluded therefore, that the data are representative of the states public school districts as to size, geographical location, organization, and economic condition. This statement does not violate the promised anonymity but is made simply to ensure the reader that practice and procedures presented and analyzed are typical of the state as a whole.

The most obvious point to be noted in the analysis and summary of responses is that 61.1 percent of the 72 respondents have adopted policies specifically concerned with RIF. Additionally, of the 28 districts indicating that no policy currently exists, 13 provided comments to the extent that policies for RIF were either in stages of development or adoption. Thus, it is reasonable to assume that by the time this study is completed no less than 61.9 percent (or 57 school boards) of the total 92 districts will have adopted policies concerned specifically with RIF.

Thus, the significance of the problem lies in an examination of the numbers of districts having adopted, or planning to adopt, RIF policies.

The greater portion of those districts who have adopted policies for RIF have included the major causative conditions of "financial exigency," "declining enrollment," and; "program change or elimination." Only several districts of that group recognized a need to include conditions addressing "reorganization or consolidation."

Given the conditions under which the necessity to RIF, might exist,

the greater share of South Carolina school districts represented in the sample are fairly comparable in policy inclusions. Interestingly, all but 3 of the 44 districts indicating adopted RIF policies give consideration to "total years in the specific district," while only one district policy denotes "tenure per se" as a basis for making a determination to RIF. While the greater number of responding districts includes "district experience," more than half also includes the areas of "degrees," "certification," and "evaluation," as factors for RIF. There is an obvious and pervading similarity among responding districts in RIF policy criteria.

The similarity noted above appears to be a direct result of the use of common legal counsel, the circulation of common literature, and presentations made at national, state and local conferences. There also seems to be commonalities as a result of widely read articles in various professional journals.

Thus, both formal and informal communication networks within the educational community are having a pronounced influence on the variety of existing policies. And though the policies vary, there is a similarity of structure and criteria extant in the school districts of this state.

Many of the criteria which are common and prevalent within the 44 sample districts having adopted RIF policies are necessary and may be viewed as points of strength. On the other hand, it is just as obvious that the variance of definitions and the exclusion of other possibly critical criteria may well forebode serious implications for particular districts.

The fact that the state of South Carolina has no statutory provision for teacher dismissal other than for "cause" places a heavy burden upon the board and administration of each school district in meeting the moral, ethical and legal demands of this contemporary problem. It is quite possible that those districts responding as having had "no problems" are willing to forego the effort of developing RIF policies and risk the implications of RIF should the need arise. Those who have adopted, or are adopting, policies perceive the immediacy of the need to give RIF processes the integrity they deserve. It may do well to note that the pendulum swings (usually to an extreme) and, in all probability, RIF will ebb and flow over the coming decades. Those districts escaping the throes of RIF decisions during the '80's may well be the victims of RIF problem during the '90's.

An analysis of the respondent's comments concerning policy application indicates greater similarity within the factors of "recall", "due process" and "placement assistance" than in a common thrust toward concerns for "district-wide" or "school level" descriptors of implementation. Perplexing to the writers is the fact that no respondent policy addresses "curriculum" or "subject areas" (though it should be noted that "certification area" is included under criteria for RIF in 17 policy statements).

The most glaring exclusion -- and possibly the greatest weakness -- within the respondent policies (excepting two) is the absence of any notation of "civil rights" or "affirmative action". In light of the fact that 35 South Carolina school districts are under court ordered desegregation plans and the remaining 57 are under voluntary plans for staff and/or pupils, it would seem paramount to include RIF policy application statements

that address the legal constraints involved.

Most respondent policies were quite inclusive in both "Conditions for RIF" and "Criteria for Implementing RIF"; however, a reasonably high number (17) found it desirable to also place additional reliance on "other administrative procedures" and include this statement in their response. There may be an inherent weakness in this condition in that a board finding itself in litigation over RIF could conceivably be accused of using policy or procedures at varying times, and without consistency, only in their best interests and not in the interest of the personnel suffering the loss of position. If the "other procedures" are included within the RIF policy, then the point addressed might become moot.

In summarizing, it appears that South Carolina school administrators and boards are more than aware of the problem of RIF and the implications of not having adopted policies. The fact is also evident that a few districts (not having had nor anticipating the necessity to RIF) perceive that the problem will soon go away.

There are marked similarities and commonalities within the "condition", "criteria" and "application" factors included among policy statement provided by the respondents. It would be reasonably safe to assume that these same similarities and commonalities will appear in policies yet to be adopted.

Recommendations

As a result of an analysis of the Review of Literature and the collected responses of a representative sample of South Carolina school districts, it is recommended that:

1. districts not yet having adopted RIF policies should involve all staff levels of employees in developing substantive and procedural content.

2. districts already having adopted RIF policies should make every effort to inform all constituent parties of substantive and procedural content and provide access for dialogue concerning possible additions, deletions or revisions.

3. school boards should establish systems for documentation -- and disclose fully -- conditions which are necessitating implementation of the RIF procedures.

4. once criteria for RIF are adopted, all dismissals should be processed in congruence with those criteria and with as much consistency of procedure as is possible.

5. RIF policy should not be based on seniority alone for that measure by itself will not safeguard the major educational concern -- program quality.

6. comprehensive educational planning for both program and manpower should be an on-going evaluative function. This is necessary to maintain the base for the desirability and/or necessity of identifying programs and compatible instructional needs.

7. employee evaluation procedures, though desirable and necessary, should be reviewed on an in-depth basis as to the implications they might present in procedural dismissal under RIF policy.

8. alternatives to RIF dismissals be given serious consideration. Though reduced employment is damaging to personnel, no employment is disasterous.

9. consideration for both substantive and procedural content in keeping with the due process of law be included in policies, and that such considerations be extended to any recall provisions that might exist.

10. definitions of recall provisions address not only the personnel eligible for possible recall, but also define the time limitations applicable for such recall.

11. all school boards examine the implications of policy content in light of civil rights legislation, federal and state regulations, court orders, and affirmative action plans. Boards should also take care that neither discrimination nor reverse discrimination result through application of inadequate policies.

12. all existing policies or policies under development or revision should have the involvement of legal counsel.

13. the South Carolina Association of School Superintendents should consider presenting a Resolution to the legislative body of this state for enactment of a comprehensive RIF statute. This action could afford all school districts with a base requisite to the necessary legal protection.

BIBLIOGRAPHY

General Literature

1. Bender, Robert E. "Before You Make a Reduction in Force, Be Sure to Pass a Policy that Contains these Elements." American School Board Journal, Vol 167, No. 3 (March, 1980), 38, 39.

2. Castetter, William B. The Personnel Function in Educational Administration New York: McMillan Publishing Co., Inc. 1981.

3. Davis, Bruce "Reduction in Force (RIF) - When and How Do You Do It?" South Carolina School Board Association Journal, (May, 1981), 16,17.

4. Demboski, Frederick and Geneva Gay "Instructional Effects of Declining Enrollments." Educational Leadership, Vol. 38, (Nov., 1980), 173-75.

5. Divoky, Diane "Burden of the Seventies: the Management of Decline." Phi Delta Kappan, Vol. 61, (October, 1979), 87-91.

6. Duignan, Patrick and Arthur Ponder "Staffing Practices in a Time of Declining Enrollments." Canadian Administration, Vol. 18, No. 1, (October, 1978), 1-6.

7. Harris, Ben M. et al, Personnel Administration. Boston: Allyn and Bacon, Inc., (1978).

8. Haun, Francis R. "Reduction in Force: Is Your Board Prepared?" A paper presented at the Annual Meeting of the National School Boards Association, (38th). Anaheim, Calif. (April 1-4, 1978).

9. Jenkins, Gene "Get It Together -- Be Accountable!" The Clemson Kappan, Vol. II, No. 1, (Fall, 1981), 2, 4.

10. Johnson, Susan Moore "Seniority and Schools." Phi Delta Kappan, Vol. 64, No. 4, (December, 1982), 259-64.

11. Kalvelage, Joan, et al, "Reduction in Force and Affirmative Action." Educational Economics, (January/February, 1978), 1-23.

12. McGhehey, M.A. (Editorial), School Law in Changing Times. Topeka, Kansas: National Organization On Legal Problems of Education, (1982).

13. Moore, Samuel A. "The Last Shall Be the First and the First Shall Be the Last." Peabody Journal of Education, Vol. 55, No. 4, (July, 1978), 329,31.

14. Morgan, John A., Jr. Developing a Procedure for Reduction in Force at Piedmont Technical College. A Practicum presented in partial fulfillment of the requirements of the Doctor of Education Degree. (October 18, 1978).

15. Parrish, Jack M. "1982-83 State Approriations Act." A paper presented at the South Carolina State School Administrators' Conference, Myrtle Beach, S.C., (July 15, 1982).

16. Phay, Robert E. "Reduction in Force: A Necessary Action for Many Schools in the 1980's." School Law in Contemporary Society. Topeka, Kansas: National Organization on Legal Problems in Education, (1980), 11-35.

17. Phay, Robert E. Reduction in Force: Legal Issues and Recommend Policy, NOLPE Monograph Series, Topeka, Kansas: National Organization on Legal Problems in Education, (1980).

18. Phay, Robert E. "Reduction in Force: Retrenchment in the 1980's." School Law Bulletin, Vol. 11, No. 2, (April, 1980), 1-5.

19. Phay, Robert E. "RIFs: Substantive Legal Issues." School Law Bulletin, Vol. 11, No. 3, (July, 1980), 13-22.

20. Phay, Robert E. "RIFs: Procedural Issues and Post Termination Rights." School Law Bulletin, Vol. 11, No. 4, (October, 1980), 1-11.

21. Phay, Robert E. "Model Procedure for RIFs." School Law Bulletin, Vol. 12, No. 1, (January, 1981), 16-23.

22. Rebore, Ronald W. Personnel Administration in Education: A Management Approach. Englewood Cliffs, N.J. Prentice-Hall, Inc., 1982.

23. South Carolina Department of Education, Rankings of the Counties and School Districts of South Carolina, 1976-77. January, 1978.

24. South Carolina Department of Education, Rankings of the Counties and School Districts of South Carolina, 1976-77, April, 1982).

25. Spenlia, William A. et al, "The Role of Negotiations in the Equation Declining Enrollment = Layoffs': A Management Perspective." Journal of Law and Education, (April, 1978), 243-63.

26. Spring, Joel American Education: An Introduction to Social and Political Aspects. New York: Longman, Inc., 1978.

27. Stanley, William L., Jr. "Reduction in Force: Is Your Board Prepared?" A paper presented at the Annual Meeting of the National School Boards Association, (39th). Miami Beach, Fla., (April 22-24, 1979).

28. State Department of Education of South Carolina, Enrollment Projections for South Carolina Schools,1982 through 1988, Vol. 1, No. 63, (May, 1982).

29. Stroup, Stinson W., et al, Deficits, Declines, and Dismissals: Faculty Tenure and Financial Exigency Current Issues. Sponsoring Agency, National Institute of Education, Washing, D.C., (February, 1982).

30. Stuart, Hardwick, South Carolina Teachers and the Law. Danville, Ill. The Interstate Printers and Publishers, Inc., 1979.

31. Toch, Thomas "Justices Agree to Consider Question of Shielding Minorities from Layoffs." Education Weekly, Vol. 2, No. 10, (November 10, 1982) 9, 14.

32. Ware, Martha "Reduction in Force: The Legal Aspects." Chapter 12, School Law in Changing Times, Editor: M.A. McGhehey, National Organization on Legal Problems in Education, 1982.

33. Zirkel, Perry A. and Charles T. Bargerstock "The Law on Reduction-in-Force: A Summary of Legislation and Litigation." Monograph: Arlington, VA., Educational Research Service, Inc., (1980).

34. Zirkel, Perry A. and Charles T. Bargerstock "Reduction in Force: A Statutory Reality." Compact, (Fall, 1980), 15-17.

Legal References

35. Singleton v. Jackson Municipal Separate School District, 419 F.2d 1211 (5th Cir. 1970).

36. Johnson v. Board of Regents, 377 F. 227 (W.D. Wis., 1974).

37. Chapdelaine v. Torrence, 532 S.W. 2d 542, 549 (Tenn. 1976).

38. McCormick v. Attala County Board of Education, 424 F. Supp. 1382 (D.C. Miss. 1976).

39. Fedele v. Board of Education of the Town of Bradford, 384 A. 2d 737 (Conn. C.P. 1977).

40. Point Pleasant Beach Teachers Association v. Dr. James Callam, Decision of N.J. Comm'r. of Education (1977).

41. Polaski v. Board of Education of Burlington Cty. Voc. Tech. High School, (Decision of Comm'r. of Education, 1977).

42. Yaffe v. Board of Education of the City of Meridian, 380 A. 2d 1 (Conn. C.P. 1977).

43. Adams v. Clarendon Cty. School District No. 2, 241 S.E. 2d 897,1978.

44. Bickford III v. Board of Education of Elmwood Park, (Decision of N.J. Comm'r of Education 1978).

45. Eddie Jones v. Board of Education of the City of Englewood, (Decision of N.J. Comm'r of Education 1978).

46. Krotkoff v. Goucher College, 585 F. 2d 675, 681 (4th Cir. 1978).

47. Board of Directors of Riverside School District v. Carmody, 408 A. 2d 885 (pa. Comm'w Ct. 1979).

48. Chester v. Harper Woods School District, 273 N.W. 2d 916 (Mich. 1979).

49. Penzenstadler v. Avonworth School District, 403 A. 2d 621 (Pa. Comm'w 1979).

50. Schnabel v. Alcester School District, No. 61-1, 259 N.W. 2d 340 (S.D. 1980).

51. Andresky v. West Allegheny School District, 437 A. 2d 1075 (Pa. Comm'w Ct. 1981).

52. Herback v. Board of Education for School District No. 73, 419 N.E. 2d 456 (Ill. App. 1981)

53. Kelly v. Amback, 442 N.Y.S. 2d 616 (App. Div. 1981).

54. Klein v. Deer Park Union Free School District, N.Y.S. 2d 922 (Sup. Ct. 1981).

55. Nagel v. Board of Education of Plainview Old Bethpage Cent. School District, 441 N.Y.S. 2d 742 (App. Div. 1981).

56. School Directors of District U-46 v. Kossoff, 419 N.E. 2d 658 (Ill. App. 1981).

57. Shandy v. Portland School District No. 1, 634 P. 2d 1377 (Or. App. 1981).

58. Shestack v. General Braddock Area School District,437 A. 2d (Pa. Comm'w. Ct. 1981).

59. State of South Carolina, Office of the Attorney General, Columbia, S.C. (Opinion of the Office of the Attorney General, March 19, 1981).

60. Chester Upland School District v. Brown, 447 A. 2d 1068 (Pa. Comm'w Ct. 1982).

61. Reed v. Edgeley Public School District No. 3, 313 N.W. 2d 775 (N.D. 1982)

62. Dykeman v. Board of Education of the School District of Cedar City, 316 N.W. 2d 69 (Neb. 1982).

APPENDIX

PROPOSAL
REDUCTION IN FORCE

Current and predicted declines in school enrollment coupled with continuing budgetary reduction are creating extreme difficulties for the nation's school districts.

One area hardest hit has been that of employment practices, and in particular the obvious necessity for examining ways to achieve a reduction in force (herein referred to as RIF).

The major concern of this study shall be RIF needs in the State of South Carolina and the means whereby school boards are addressing the problem from the bases of statutes, policies and procedures.

Purposes of the study

The purposes of this study shall be to:

1. Review the literature as related to RIF nationally and within this state.
2. Examine the legal framework within which RIF has been adjudicated in specific, precedent setting cases.
3. Establish criteria which best describes the status of practices addressing RIF.
4. Seek responses from South Carolina school districts.
5. Analyze existing school district practices addressing RIF.
6. Draw conclusions from the analysis of responses.
7. Present recommendations

Conduct of the study

The following procedure will be used in conducting this study:

A. Design a RIF response sheet to be distributed to each of the 92 school districts in this state.

B. Develop criteria based on a review of educational and legal literature for tabulation and analysis of legitimate responses.

C. Examine, analyze and summarize responses against the established criteria in "B" above.

D. Draw and present conclusions based upon the summarization and analysis of responses.

E. Provide all school districts with an outline of factors worthy of consideration in the development of a viable and workable RIF policy.

College of Education
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

CLEMSON UNIVERSITY

In recent years, one of the most pressing problems faced by superintendents across this nation is "Reduction in Force" brought about by declining enrollments and now compounded by critical economic conditions. Many school districts are now forced to face this problem without a stated and approved board policy, or with a policy which is viewed by the board and the superintendent as being inadequate or legally questionable.

To this point, this problem has demanded much time and conversation in administrative gatherings; however, it appears that little has been done within our state to synthesize information on current practices from a workable and legal base. Therefore, it is our intent as professors involved in teaching administrative practices to provide you with a thorough examination and analysis of this pressing problem. Further, it is our intent to conduct the study in such manner as to guarantee anonymity to each participating district. Obviously the study will have more impact and provide a better basis for action if all districts participate.

Please respond to the enclosed response sheet as soon as your schedule will allow. A stamped, self-addressed envelope is enclosed for your convenience. Upon completion of the study, we will provide your office with a written report.

Thank you for your cooperation.

Sincerely yours,

R. E. Jenkins
Associate Professor of Educational Administration

38 Marvin Woodson, Jr.
Associate Professor of Education Administration

MW/sw

CLEMSON, SOUTH CAROLINA 29631 • TELEPHONE 803/656-3482

Reduction in Force
Response Sheet

Please check one of the following responses and return with appropriate information.

_____ 1. A copy of this district's written and approved "Reduction in Force" policy is enclosed.

_____ 2. We are currently operating without a specific "Reduction in Force" policy, but are addressing the problem under other established personnel policies. (Copies of pertinent policies are enclosed.)

_____ 3. We are currently operating without a specific "Reduction in Force" policy, but are addressing the problem under administrative procedures. (Please briefly describe these procedures.)

_____ 4. We have no established policy or procedures specifically addressing "Reduction in Force," but the Board, through recommendations from the superintendent, disposes of the problem in the most expedient manner at that time. (Please provide an example of the procedures you have used to reduce force.)

_____ 5. We have not experienced problems with "Reduction in Force" and have not developed policies or procedures.

_____ 6. Other means by which you address the problem of "Reduction in Force." (Please specify or describe.)

President
Francis A. Snelgrove

President-elect
Dr. Harold D. Patterson

Secretary
Dr. Joseph E. Gentry

Executive Director
Thomas H. Ackerman

SOUTH CAROLINA ASSOCIATION
OF SCHOOL SUPERINTENDENTS
A DIVISION OF THE SOUTH CAROLINA ASSOCIATION OF SCHOOL ADMINISTRATORS
AN AFFILIATE OF THE AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS

421 ZIMALCREST DRIVE
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September 3, 1982

To: The Local School District Superintendents

From: Dr. Jane A. Wilson, President
South Carolina Association
of School Administrators
and
Tom Ackerman, Executive Director
South Carolina Association
of School Administrators

Subject: Request from Clemson University

Clemson University College of Education is undertaking a project dealing with a very timely topic: "Reduction in Force". Much has been said and written recently about declining enrollments and its effect on staffing the schools throughout the United States. It is our opinion this study would be very helpful and we would like to encourage you to participate in the survey.

Thank you for your cooperation.

JAW/THA/jhg

Enclosure